

IN THE SUPREME COURT OF THE STATE OF DELAWARE

AMBRIA SMITH,	§
	§
Defendant Below-	§ No. 386, 2009
Appellant,	§
	§
v.	§ Court Below—Superior Court
	§ of the State of Delaware,
STATE OF DELAWARE,	§ in and for Sussex County
	§ Cr. ID 0712014536
Plaintiff Below-	§
Appellee.	§

Submitted: September 10, 2009

Decided: October 20, 2009

Before **HOLLAND, BERGER**, and **JACOBS**, Justices.

**ORDER**

This 20<sup>th</sup> day of October 2009, upon consideration of the appellant's opening brief, the State's motion to affirm and the record below, it appears to the Court that:

(1) The appellant, Ambria Smith, filed this appeal from the Superior Court's denial of her motion for modification of sentence. The State has filed a motion to affirm the judgment below on the ground that it is manifest on the face of Smith's opening brief that her appeal is without merit. We agree and affirm.

(2) The record reflects that Smith pled guilty in May 2008 to two counts of endangering the welfare of a child and one count each of

trafficking, possession with intent to deliver cocaine, and possession of a firearm by a person prohibited. The Superior Court sentenced Smith on one of the child endangerment counts to one year at Level V incarceration with credit for time served, to be suspended after serving eight months. The trial court deferred sentencing on Smith's trafficking conviction pending her successful completion of Boot Camp and Aftercare.<sup>1</sup> On her remaining three convictions, the Superior Court imposed respective periods of incarceration that were suspended entirely for lesser concurrent periods of probation.

(3) Smith did not successfully complete Boot Camp and was discharged for unauthorized communications and possession of dangerous contraband. At the sentencing proceeding on March 6, 2009, the Superior Court imposed the sentence on Smith's trafficking conviction, deferred from its previous sentencing order, which consisted of a ten year term at Level V incarceration to be suspended after serving a two-year minimum mandatory prison term for probation. Furthermore, the Superior Court discharged Smith from the sentence for child endangerment, which she had served prior to entering Boot Camp, and reimposed the same suspended sentences on Smith's remaining three convictions.

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<sup>1</sup> See 11 Del. C. ch. 67.

(4) In May 2009, Smith filed a motion for sentence modification, requesting credit for time she had spent incarcerated prior to her admission into the Boot Camp program. She also requested credit for the time she had spent in Boot Camp prior to her discharge from the program. She also requested that the balance of her sentence be suspended as a result of the harassment and abuse she suffered while in Boot Camp. As a result of her motion, the Superior Court gave her additional credit for 27 days she spent awaiting entrance into Boot Camp after completing her child endangerment sentence. The trial court also gave Smith an additional 15 days credit for time she spent in prison after her discharge from Boot Camp awaiting her new sentencing hearing, but denied the rest of her motion. Smith appeals this ruling. In her opening brief, Smith again contends that she is entitled to credit for the eight months she spent in prison, while pregnant, awaiting her entrance into Boot Camp. She also argues that she should be entitled to credit time for her participation in Boot Camp.

(5) We disagree. The eight months that Smith served in prison awaiting her placement into Boot Camp was previously credited to her sentence for child endangerment, as reflected in the Superior Court's March 6, 2009 sentencing order. She is not entitled to double credit for that time against her trafficking sentence. Moreover, it is well established that a

defendant is not entitled to any credit for time spent in Boot Camp.<sup>2</sup>

Accordingly, we find no merit to Smith's contentions on appeal.

NOW, THEREFORE, IT IS ORDERED that the judgment of the Superior Court is AFFIRMED.

BY THE COURT:

/s/ Carolyn Berger  
Justice

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<sup>2</sup> *Johnson v. State*, 2007 WL 1227510 (Del. June 1, 2007) (citing 11 Del. C. § 6712(h)).